not securely fastened the swamp hook gave way, causing the cable or hook to strike and injure plaintiff. *Held,* that plaintiff could recover for the injuries on the ground that the hook tender and signal man were not fellow servants. *Hoseth* v. *Preston Mill Co.* (1909), — Wash. —, 104 Pac. 612.

In holding that the hook tender is the alter ego of the company and not a fellow servant of plaintiff, the opinion states that the question has been decided in Washington and cites *Sullivan* v. *Wood & Co.,* 43 Wash. 259; *Goldthorpe* v. *Clark-Nickerson Lumber Co.,* 31 Wash. 467. In the first case the injury was caused by the use of a wedge which had been selected by the superintendent and adjusted by the foreman in charge of the work. In the second, the injury resulted from an effort to remove a belt that plaintiff had been directed by the millwright in charge, to take away. And in neither case was the present question involved. It is clear that the hook tender had no supervision over the work, and that he was engaged in the same general business as plaintiff, and was working for the same company. The only ground upon which he may be deemed a vice principal is that he is performing nondelegable duties. In this view the case is supported by *Eingartner* v. *Illinois Steel Co.,* 94 Wis. 70, 68 N. W. 664. Other courts hold that such duties are delegable and that there can be no recovery because of the fellow servant doctrine. *Beesley* v. *Wheeler,* 103 Mich. 196, 61 N. W. 658; *Sofield* v. *Guggenheim,* 64 N. J. L. 605, 46 Atl. 711; *Buck* v. *N. J. Zinc Co.,* 204 Pa. 132, 52 Atl. 740; *Stringham* v. *Hilton,* 111 N. Y. 188. Though decidedly against the weight of authority, it seems that on principle the Washington Court has announced a sound doctrine.

MUNICIPAL CORPORATIONS—INTOXICATING LIQUORS—DISCRETION OF COMMON COUNCIL IN LICENSING SALOONS.—An ordinance designated places where saloons might be licensed, omitting the place where petitioner had conducted his saloon because the city council considered that there were too many saloons in that locality, and because petitioner had been convicted of violating the liquor law, and because the arrangement of his place made violation of the law easy. On application for mandamus to compel the common council to approve petitioner's bond as a liquor dealer, *held,* that the ordinance is valid and the writ must be denied. *Mills* v. *Common Council of City of Ludington* (1909), — Mich. —, 122 N. W. 1082.

The only case cited in support of the opinion is that of *Sherlock* v. *Stuart et al.,* 96 Mich. 193, 55 N. W. 845, 21 L. R. A. 580. In that case the court held that the officers who have power to grant such licenses may use their sound discretion in respect to the granting of each individual license. To this decision there are two long dissenting opinions. The Wyoming Court in *State* v. *City of Cheyenne,* 7 Wyo. 417, 52 Pac. 975, 40 L. R. A. 710, follows the rule laid down in *Sherlock* v. *Stuart et al,* supra, and says that the cases cited in the dissenting opinion do not sustain the dissent. So in *State* v. *Common Council of City of Northfield,* 94 Minn. 81, 101 N. W. 1063, the court held, that where the act incorporating the city vested the council thereof with full power "to restrain, control, and regulate the selling and disposing of spirituous, vinous, malt, fermented, or intoxicating liquors within the said

city, and may enforce the same by appropriate ordinances" the council had power to refuse a license and to limit the number of licenses to be granted and that such action cannot be controlled or reviewed by mandamus. These cases support the majority opinion in *Sherwood* v. *Stuart et al.* supra, and the decision in the principal case both on principle and authority seems to be sound.

MUNICIPAL CORPORATIONS—INTOXICATING LIQUORS—VALIDITY OF ORDINANCE REGULATING PLACE OF SALE.—A statute of the state gives the common council power to enact ordinances,—to license and regulate saloons, to designate the room where liquors may be sold, to direct the arrangement and construction of openings into such room, to direct the location, arrangement and construction of the bar and the interior construction, and arrangement of such room. Action was brought to recover a penalty for violation of an ordinance requiring that the saloon be a single room, without rear or side doors, or inside stairway or elevator to upper rooms; that the room shall be constructed as to its front and interior arrangement so as to be viewed throughout from the front street when liquors are sold. The defense was that the ordinance was unreasonable and void, and if enforced would ruin the business of defendant. *Held,* that the ordinance is authorized by the statute. *City of Delphi* v. *Hamling* (1909), — Ind. —, 89 N. E. 308.

It is a fundamental proposition that it is the duty of the legislature to make the laws, and the duty of the court to determine upon the legality of the laws. If a law is not in conflict with the constitution the courts cannot set it aside because it is unreasonable or against sound policy. Here the legislature expressly conferred upon the municipal corporation power to pass ordinances of the character under consideration and prescribed the mode of the exercise of that power. It follows that if the statute is not unconstitutional the ordinance is valid. DILL. MUN. CORP., Ed. 3, §328; *Champer* v. *City of Greencastle,* 138 Ind. 339, 35 N. E. 14, 24 L. R. A. 768, 46 Am. St. Rep. 390; *Skaggs* v. *City of Martinsville,* 140 Ind. 476, 39 N. E. 241, 33 L. R. A. 781, 49 Am. St. Rep. 209; *Bogue* v. *Bennett,* 156 Ind. 478, 480, 481, 60 N. E. 143, 83 Am. St. Rep. 212; *Miller* v. *Town of Syracuse,* 168 Ind. 230, 80 N. E. 411, 8 L. R. A. (N. S.) 471, 120 Am. St. Rep. 366. There can be no doubt about the constitutionality of the statute in question for in *Schmidt* v. *City of Indianapols,* 168 Ind. 631, 638, 80 N. E. 632, 635, 14 L. R. A. (N. S.) 789, 792, 120 Am. St. Rep. 385, 391, the sourt says: "It is well settled that the legislative power to deal with this subject, whether it be to license, regulate, restrain, or prohibit the sale of such liquors is unlimited. All such restrictive measures, taken either by the state or by virtue of authority delegated to municipalities, are upheld as a proper exercise of the police power." *State* v. *Calloway,* 11 Idaho 719, 84 Pac. 27, 114 Am. St. Rep. 285, 4 L. R. A. (N. S.) 109; *People* v. *Case,* 153 Mich. 98, 116 N. W. 558, 18 L. R. A. (N. S.) 657; *Pate* v. *City of Jonesboro,* 75 Ark. 276, 87 S. W. 437, 112 Am. St. Rep. 55; *Beauvoir Club* v. *State,* 148 Ala. 643, 42 South. 1040, 121 Am. St. Rep. 82; *State* v. *Durein,* 70 Kan. 1, 78 Pac. 152, 15 L. R. A. (N. S.) 908; *Baxter* v. *State,* 49 Ore. 353, 88 Pac. 667, 89 Pac. 369; *State* v. *Baker,* 50 Ore. 381, 92 Pac. 1076, 13 L. R. A.